

OCT 31 2012

JULIA C. DUDLEY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CHRIS CARTY,
Plaintiff,

v.

SGT. W.A. WRIGHT et al.,
Defendants.

) Civil Action No. 7:12cv00028

) ORDER ADOPTING REPORT
) AND RECOMMENDATION

) By: Samuel G. Wilson
) United States District Judge

Chris Carty, a Virginia inmate proceeding *pro se*, brings this action pursuant to 42 U.S.C. § 1983 alleging that Sergeant Wright, a guard at Red Onion State Prison ("ROSP"), sexually harassed him during a body cavity search and that Lieutenant Tate, another ROSP guard, failed to intervene. Tate responded by filing a motion for summary judgment,¹ and the court referred the matter to United States Magistrate Judge Pamela M. Sargent for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has filed a report finding no basis for sustaining Carty's lawsuit against Tate in his official capacity and recommending that the court grant Tate's motion for summary judgment in that respect. However, Magistrate Judge Sargent found questions of fact underlying Carty's remaining allegations against Tate and recommended that the court deny the balance of Tate's motion.

Carty has objected to Magistrate Judge Sargent's recommended disposition of Carty's official-capacity claim by reiterating allegations from his complaint and citing case law that does not contravene Magistrate Judge Sargent's recommendation. Having reviewed the Report and Recommendation, Carty's objections thereto, and pertinent portions of the record *de novo* in

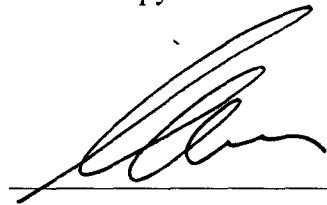
¹ Wright no longer works at ROSP, and the record reflects some difficulty in serving him with process. Though Carty filed this action on January 24, 2012, Wright has only recently answered the complaint and has not filed a motion for summary judgment.

accordance with § 636(b)(1), the court agrees with the Magistrate Judge's recommendation regarding Carty's official-capacity claims against Tate.

Tate has not objected to the Magistrate's Report and Recommendation. "[I]n the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005). The court is satisfied that there is no clear error on the face of the record. Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge's Report and Recommendation is **ADOPTED** in its entirety, and Tate's motion for summary judgment (ECF No. 29) is **GRANTED** as to Carty's claim against Tate in his official capacity and **DENIED** in all other respects.

The Clerk of the Court is directed to send a certified copy of this order to the plaintiff.

ENTER: October 30, 2012.


UNITED STATES DISTRICT JUDGE